

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:13cv21-FDW-DSC**

SHERRY FULLER QUEEN,)
)
Plaintiff,)
)
v.)
)
	ORDER
CAROLYN W. COLVIN,)
Acting Commissioner of)
Social Security Administration,)
Defendant.)
)

Order

The Defendant, Carolyn W. Colvin, Acting Commissioner of Social Security, has moved this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment reversing the Commissioner's decision with a remand of the cause to the Commissioner for further administrative proceedings. (Doc. No. 11).

Upon remand, the administrative law judge (ALJ) will be directed to consider the findings in the claimant's prior hearing decision, dated September 17, 2008, under Acquiescence Ruling 00-1(4); reevaluate the treating and nontreating source opinions pursuant to the provisions of 20 C.F.R. § 416.927 and Social Security Rulings (SSR) 96-2p and 96-5p; and explain the weight given to the treating and nontreating source opinion evidence. The ALJ should also reevaluate the North Carolina disability determination for Medicaid and the third-party opinion evidence from the claimant's stepmother in accordance with SSR 06-03p. On remand, the ALJ will be directed to give Plaintiff an opportunity for a new hearing, to further develop the record, and issue a new decision.

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the Commissioner's decision with remand in Social Security actions under sentence four of section 405(g) of the Social Security Act, 42 U.S.C. § 405(g), and in light of the Commissioner's request to remand this action for further proceedings and with the Plaintiff's consent, this Court hereby:

- (1) REVERSES the Commissioner's decision under sentence four of 42 U.S.C. § 405(g), with a remand of the cause to the Commissioner for further proceedings. See Melkonyan v. Sullivan, 501 U.S. 89 (1991);
- (2) The Clerk will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure;
- (3) Defendants' Unopposed Motion to Remand (Doc. No. 11) is GRANTED;
- (4) Plaintiff's Motion for Summary Judgment (Doc. No. 9) is DENIED as moot.

As there remains no justiciable dispute pending between the parties, upon the Clerk's entry of judgment, the Court's jurisdiction over this case shall terminate except for the purposes of consideration and determination of motions for attorney's fees, including any motion for such fees under the Equal Access to Justice Act ("EAJA").

SO ORDERED.

Signed: November 18, 2013



Frank D. Whitney
Chief United States District Judge

